



September 24, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

**Re: Docket No. OP-1209
Request for Information for Study on Investigations of Disputed Consumer
Information Reported to Consumer Reporting Agencies**

Dear Ms. Johnson:

The National Association of Mortgage Brokers (NAMB) appreciates the opportunity to comment on the Request for Information for Study on Investigations of Disputed Consumer Information Reported to Consumer Reporting Agencies.

Mortgage Brokerage Industry

Mortgage brokers act as intermediaries between consumers and lenders when the borrower finances the purchase a home or refinances an existing mortgage. A typical broker maintains business relationships with various lenders to provide consumers with numerous financing options. These partnerships allow the 44,000 mortgage brokerage companies employing over 360,000 employees in the United States to offer consumers the most competitive mortgage products available. Mortgage brokers originate two out of every three residential loans in any given year by advising homebuyers throughout the home financing process and delivering cost effective mortgages to consumers. As the single largest group of loan originators, mortgage brokers undoubtedly have played a significant role in increasing the rate of homeownership in the United States to an all-time high of 68.6 percent.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry. As the voice of mortgage brokers, NAMB speaks on behalf of more than 24,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise. By adhering to a strict code of ethics and best lending practices, NAMB members guide consumers through the mortgage loan origination process. NAMB's government affairs representation ensures the voice of the mortgage brokerage industry is heard on Capitol Hill.

General information

What type of entity reports negative and/or positive information to a consumer reporting agency and what type of entity does not report negative and/or positive information to a consumer reporting agency? If an entity does not report information to a consumer reporting agency, why not?

Furnishers of credit, banks, credit card companies, loan companies, auto loan companies, department stores and other providers of credit to consumers will furnish positive and negative information to the CRAs about the consumer's payment histories. However not all of those entities will furnish that information to all of the CRAs, nor do they furnish that information every month. Credit unions tend to file their positive or negative information often only on a quarterly basis. Many mortgage lenders who tend to deal in the servicing of portfolio type loans or non-prime loan products do not report the payment history or the account to the credit files of the national repositories. This information is generally not submitted in an attempt to protect the customer base from being solicited for new better quality refinance transactions. Utility companies and phone companies only report negative information about a consumer to the CRAs. The assumption is that they have to provide utilities to consumers and reporting costs them money, so they report only the negative information. The problem is that often the utility has not notified the consumer about the delinquency particularly in the case of a co-signor on an account (parent for child) so that consumer ends up with negative information in his or her credit file when they had no knowledge the account was delinquent. Hospitals and other medical professionals only report negative information. Again, particularly with hospitals, the consumer is sent a very confusing statement such as: "this is not a bill, your insurance company has been contacted regarding the payment of this claim, however be aware that the amount owing is your responsibility regardless of the response by your insurance company." There is rarely ever a second notice that goes out to the consumer or a warning that the account is about to go to collection to give the consumer a chance to make the payment and fight with the insurance company later, so the consumer has no knowledge of the collection until called by a collection company or a credit report is pulled during an application for credit and the consumer finds his or her credit very negatively impacted by the often very recent negative item being reported. We suggest requiring all furnishers of credit to provide an advance warning to consumers that the past due account is being submitted to collection or charged off, if not paid within five business days, prior to submitting any negative information to the CRAs to assist in averting inaccurate or unknown information from being reported to the CRA credit file on the consumer.

Of all disputes received by the furnisher, what percentage of the disputes or complaints comes through a consumer reporting agency? What percentage comes directly from consumers? What percentage comes from other sources (e.g., credit repair entities)?

CDIA or NCRA are in a much better position to determine and provide that information.

Do the answers to the questions below vary based on industry, size of entity, type of credit, or other characteristics? Are there any generalizations that can be made based on industry, size of entity, type of credit, or other characteristics?

Uncertain

Disputes communicated by consumers directly to furnishers

Does the furnisher provide an address for consumers to use if they want to dispute information directly with the furnisher? If not, why? If an address is provided, how is the consumer informed about this address?

Generally the addresses are listed for the various accounts being reported to the CRAs and the information, although generally just a PO Box address is listed on the credit report printed by either the CRA or a reseller being provided to whomever requested the credit report. In California, consumers are provided this information via receipt of a copy of their credit report, credit scores and the four reason codes indicating why the score was not higher per state disclosure law. In other states, the consumers get that information from the end user who had requested the generation of that report or if the consumer were declined for credit, he or she would get that information from the copy of the report requested from the CRA where the negative information triggering the decline had been listed.

Regardless of whether an address is provided, what is the furnisher's process and timeline in handling disputes and complaints that come directly from consumers? Under what circumstances do furnishers currently investigate disputes regarding information in a consumer file, based on a direct request of the consumer?

Many of the furnishers of credit will do nothing about a file disputed with them directly by a consumer. They tell the consumer he or she will have to contact the CRA for assistance. Many collection companies refuse to talk with the consumer at all unless pushed and most consumers will not push. Many of the credit card companies or department stores will acknowledge the consumer and will investigate and let the consumer know that the information is incorrect and either send them back to the CRA at that time or they will issue a letter stating that they will notify the CRA of the necessary changes. If they say they will report, they tell the consumer that it will take 60 to 90 days for the CRA to make the changes to their file or they say they will report and then do not. Generally if the change is made to the CRA in writing the furnisher of credit unfortunately does not change its electronic/magnetic tape submission to reflect the corrected information, so the original bad information gets thrown back into the consumer's file at the CRA with the next electronic/magnetic tape update. Consumers generally will get a furnisher of credit to investigate a dispute if they get a credit manager who is having a good day and the consumer is nice but persistent and determined to get help.

Is sufficient relevant information provided to the furnisher by the consumer? If not, what relevant information is often missing, and why? If relevant information is lacking, how does the furnisher resolve the dispute?

Often there is no relevant information because the information does not belong to the consumer. When the consumer has relevant information, we always suggest that they forward it attached to their written dispute to the CRA via overnight mail with a return receipt requested to date stamp its receipt. Unfortunately, when there was relevant information, it may be from years ago and the file no longer exists for the consumer or the information has been lost in moves or is in storage in who knows what box. Unless the furnisher of credit is willing to dig into its old files it may not be able to resolve the dispute, but instead of confirming that it cannot validate the information it does nothing or actually reports back to the CRA that the information is accurate as reported. There are also times when the furnisher of credit is in fact given conclusive information about the disputed information, but the corrections or modifications reported back to the CRA are far from accurate. Discharge dates are reported inaccurately, balances are not indicated accurately as zero. The process is sloppy at best and very frustrating for the consumer. The failures in the dispute system are why the mortgage broker industry requested the rapid rescoring process years ago to assist in getting new scores on a file when a consumer was in the middle of an application for a new home loan, and credit scores on the file due to the inaccurately report information were too low to secure the loan that the consumer wanted to receive. Today, the expedited process call Rapid-Re-scoring is by far the most effective way to modify information that would be disputed through the normal dispute process.

What are consumers' experiences in resolving a dispute where the furnisher provided an address? What are their experiences locating and using this address to resolve their dispute?

Again, the address, if accurate, works only as well as the contact on the receiving end at the furnisher of credit. Most consumers become very frustrated and upset with the current dispute system. The system is supposed to verify that its reported information is in fact accurate when disputed, but as the consumer quickly learns, the burden of proof rests on the consumer's shoulders, particularly with collection accounts. When an account has been transferred to a collection company from a bank and proof the account was opened through the use of stolen identity is provided, both furnishers of information quickly refer the consumer back to the other for correction responsibility. Not only has theft of the consumer's identity occurred, but, the consumer is unable to get either party to take responsibility for correcting the consumer's credit file with the CRA. Again it depends who is on the receiving end of the consumer's complaint or plea for help, as to how much assistance the consumer gets with the dispute.

When the consumer can get a detailed written confirmation from the furnisher of credit as to the accurate information and how the creditor will instruct the CRA to modify or delete the item from the consumer's credit file, the single best way for the that information to get to the consumer's credit file in a expedited way is to have the broker request an expedited service from

its credit reseller called the Bureau Direct Rapid Re-score process. This process is an expedited service provided to the mortgage industry that allows them to get a credit file re-scored after the data in the consumer's file at the respective CRA has been updated based on the information supplied to the consumer by the furnisher of credit in its letter to the consumer. This expedited service provided to the mortgage industry is in serious jeopardy of not being utilized by the lenders and brokers. The CRA legal departments have decided, recently, that a consumer shall not be charged by the lender or broker for this, additional B2B, service it has requested for use in packaging its loan for approval. This request for B2B expedited service from a credit reseller is no different than a request for a tri-merged report versus a single in-file report or a credit supplement or upgrading of the tri-merged report to a full Residential Mortgage Credit Report and the charges that are passed through to the consumer in those transactions, yet the CRAs are choosing three plus years into providing this service to suddenly start treating it differently than all of the other services provided to businesses in the mortgage arena. It will be the consumers who will be damaged by the continuance of this decision on the part of the CRAs to treat this particular service like a consumer to CRA relationship instead of the B2B relationship it actually is. Brokers and lenders will stop utilizing the expedited service, if they cannot recover their expenses, and consumers who would have benefited from a rapid rescoring process will have to deal with the archaic mail method of dispute before a file can be re-scored. In most instances they may lose the rate they had locked in or the home they had negotiated to purchase due to costly time delays in disputing inaccurate information so that new scores could be obtained.

What are consumers' experiences in resolving disputes where the furnisher does not provide an address? How were the disputes resolved and what entity or person (e.g., furnisher, consumer reporting agency, credit repair entity, legal representative, etc.) was instrumental in resolving the dispute?

If the consumer is working with a mortgage broker in securing financing for his or her real estate transaction, the broker can get phone numbers from the credit report reseller to pass along to the consumer. If there is truly no address or phone information, the only means the consumer has for dispute is to the CRA. The consumer can only hope that if the CRA cannot locate the furnisher of credit that the disputed information is deleted from the consumer's file.

Other furnisher duties

How does the furnisher ensure that it complies with the applicable statutory requirements regarding the accuracy and completeness of information it reports to the consumer reporting agency?

CDIA and the furnishers of credit can provide the answer to this question.

What are the furnisher's procedures and timelines if it finds the information is not complete or accurate?

CDIA and the furnishers of credit can provide the answer to this question.

What are the furnisher's procedures and timelines for reporting information that has been directly disputed by a consumer?

Some will do a manual update to the CRA, but most will report any necessary modifications with the next routine electronic/magnetic tape update, if at all. Often when a manual updating or out of cycle updating occurs it is undone but the next routine electronic/magnetic tape update, because the furnisher of credit did not correct its automated reporting record to reflect the accurate information.

What are the furnisher's procedures and timelines for reporting when a delinquency began on an account that has been placed for collection, charged off, or subjected to similar action?

Experience is that the date the account was charged off or placed for collection is generally not reported accurately. The balance owing for a charge off is rarely shown as zero and many of the furnishers of credit will continue to update the credit files every month as if the account is still an open account continuing the negative impact to a consumer's credit score indefinitely. Collection accounts are even worse. The open dates are generally not shown as the date of the original negative payment event, there is no annotation indicating who the original creditor was and when the account is transferred or purchased by yet another collection account the whole process starts again with a new open date and a new account number. This undocumented transfer on a collection account can make a five or six year old event look like a brand new occurrence to the end user of a credit report, but worse yet to the credit scoring engine driving the consumer's score way down. There should be a clear chain of events on these accounts when they are charged off or placed for collection. The furnisher of credit should report the account with an unpaid amount balance owing when the account balance has been charged off, the last date of activity column should be the date of the charge off and the last date of reporting should be the date the charge off is first reported with no past due amount, since the account has been charged off. On collection accounts, the furnisher of credit should indicate the date the account went delinquent and was placed for collection as the last date of activity and the last date of reporting, the balance owing should be shown as zero and there should be a clear notation as to the name of the collection company the account was placed with for tracking purposes and for aging purposes. The receiving collection company should show the original date of delinquency and placement for collection as the date opened and the last date of activity, until there is some new activity on the account by the consumer, the balance should be the amount placed for collection and there should be a clear notation as to who the original owner of the account is so that it is clear to anyone or any scoring system that this is not a new account, but the collection of an account that has been around for a while, particularly with any subsequent transfers to additional collection companies.

What are the furnisher's procedures and timelines for notifying a consumer reporting agency that a consumer has voluntarily closed a credit account with the furnisher?

The furnisher of credit always seems to take a longer time to report the closure of an account than when it has opened a new account for a consumer. Most of the furnishers of credit reflect an account closed at the consumer's request with the next normal reporting cycle. There are still too many creditors who do not report when an account has been closed, they just stop reporting on the account in total and it remains in the credit file frozen in time with no updating to the account balance owed.

What are consumers' experience with communicating with furnishers, with the timing of the notice of dispute appearing on the credit report, or any other matter related to having the notice of dispute placed on the credit report when disputed information continues to be reported but with a notice of the dispute?

Uncertain.

What are consumers' experiences with furnishers reporting that credit accounts with the furnishers have been voluntarily closed? What is the time span between the consumer closing the account and information about the closure appearing on the credit report?

That depends on when the furnisher of credit is updating its data about a consumer's voluntarily closed account to a particular CRA. Often the furnisher of credit just stops reporting and never shows the account as closed or a zero balance owing. This practice can cause consumers to repeatedly provide evidence that the account has been paid in full, often for years after the account was paid and closed.

Disputes communicated by consumers to consumer reporting agencies

When a consumer reporting agency receives notice of consumer disputes and forwards the information to the furnisher, how does the consumer reporting agency provide the furnisher with the notices and relevant information? What information does the consumer reporting agency transmit to the furnisher? Describe any guidelines or procedures, voluntary or otherwise, that apply to this process.

Uncertain, but CDIA and CRAs are in the best position to answer this question.

How does a consumer reporting agency ensure that furnishers comply with the requirements and timelines established under the FCRA for disputes communicated to a consumer reporting agency?

Uncertain, but CDIA and CRAs are in the best position to answer this question.

What are the furnisher's procedures and timelines for investigating the disputes and reviewing the information provided?

Uncertain, but CDIA and CRAs are in the best position to answer this question.

Is sufficient relevant information provided to the furnisher by the consumer through the consumer reporting agency? Is all relevant information from a consumer provided to the furnisher through the consumer reporting agency? If not, what relevant information is often missing, and why? If relevant information is lacking, how does the furnisher resolve the dispute?

Most often the consumer has long forgotten the full account number on a particular account that may have information misreported about it in the consumer's credit file. Typically the credit reports do not show the full account number on a particular account. The furnisher of credit for the account may have to do some significant research to find the accurate information or it may state it cannot investigate the account until it has a complete account number and the consumer is stuck with this unsupported information remaining in his or her credit file.

If the furnisher finds that the information it reported to the consumer reporting agency was incomplete or inaccurate, what steps does the furnisher take?

It should in fact take great care to report all of the information about that credit as accurately as possible. The sad truth is that many furnishers of credit will still misreport parts of the information to the CRA or fail to report in a full factual manner all of the correct information.

If the furnisher does not find the information reported to the consumer reporting agency to be incomplete or inaccurate, what steps does the furnisher take?

The furnisher certifies the information as accurate to the CRA and the file remains as reported.

Describe any guidelines or procedures that may apply to the treatment of information that continues to be disputed by the consumer after the formal dispute process has been concluded. How often do the furnisher and consumer fail to reach an agreement after the conclusion of the formal dispute process, for example, where the consumer maintains that the disputed information is inaccurate and the furnisher maintains that it is accurate?

The CDIA and NCRA should be able to provide statistics in response to this question.

Recommendations

What, if any, legislative or regulatory changes do you recommend besides changes made by the FACT Act and its implementing rules? How would these recommendations improve the system? What benefits or burdens should be considered?

Furnishers of credit should be required to report complete information on each account, as many of the current practices today can be devastating to a consumer's credit score. Once a negative item is reported to the consumer's credit file only thing that can improve the score is a lot of time.

Complete information means full factual accurate information about:

- The date opened;
- The date of last activity;
- The high credit limit (not the highest credit used or some arbitrary number);
- The actual balance owing on the file, the balance owing should show 0 if in fact the account is paid in full (not just forget to clear the last balanced owed prior to payoff);
- Past dues should be removed as soon as paid (not hang around until the next reporting cycle or longer);
- The payment should reflect the actual payment amount, not match the full balance owing unless that is an accurate reflection of the required payment;
- Stop reporting accounts delinquent or past due, month after month, when the account has been paid as negotiated or charged off;
- Collection accounts must show the original open date and the correct last date of activity and the account should be reported exactly the same way to each of the CRAs (not change the account number or report only part of an account number);
- Collection accounts should have some tracking method so the chain of ownership is identified and the original date of placement identified for aging purposes to follow the FCRA regulations for deletion (one collection account from six years ago should not morph into three or four additional accounts all looking like different collections filed at different times with different account numbers);
- Utility companies, hospitals and other medical entities should be mandated to give clear concise communication to the consumer about payments due prior to placing an account for collection; and reporting it to the CRAs
- The CRAs should be directed to stop treating the expedited rapid re-score process as something different than the other credit report services requested by mortgage lenders when package a loan application. By mandating that the requesting lender absorb the cost of this expedited credit report service the CRAs are changing the definition of the request from that of a "Broker/Lender to CRA" request for an additional service, to a dispute from a "consumer to a CRA" about incorrect information on a credit report received by the consumer directly from the CRA. That relationship and request would trigger a credit supplement correcting the disputed information, not a rapid re-score of the credit file.

Sincerely,

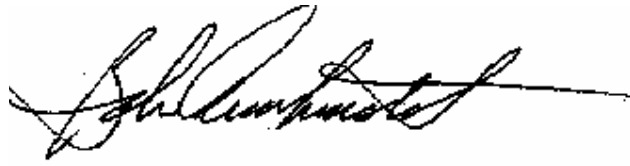
Board of Governors of the Federal Reserve System

Docket No. OP-1209

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A handwritten signature in black ink, appearing to read "S. H. Carpenter", is written over a light gray rectangular background.